

REMARKS

Initially, applicant would like to thank the Examiner for the courteous telephonic interviews he conducted with applicant's undersigned representative on November 4 and 5, 2004. During such interview applicant's representative explained that the Response to Restriction Requirement dated July 12, 2004 included an inadvertent typographical error, i.e., elected species was typed as "TV" rather than -VI- (which resulted in a patently obvious inconsistency with applicant's indication, also in the Response, that claims 14-16 were in the elected species), and requested that applicant be permitted to correct the error and have claims directed to species VI be examined in the application. The Examiner, upon advice of his supervisor (SPE) informed applicant's representative that applicant would not be able to correct the error and have claims directed to species VI examined in the application because claims directed to species "TV" had already been acted on.

Upon entry of the present Amendment-A the claims in the application are claims 1, 2, 4-6, and 9-22, of which claims 1 and 5 are independent. New claims 17-22 read on the elected species of the invention.

In the above amendments, independent claim 1 is amended to further define that: the cradle (cradle body) includes a circumferential wall extending upwardly from peripheral edges of said support platform and adapted to prevent from sliding off said support platform, in at least one of the different alignments between the cradle and base the cradle support platform is disposed at a level significantly below an upper an upper surface of said base; and the recesses are arranged such that said projections may be selectively disposed to engage the projection-engaging surfaces of the different recesses depending on an alignment of the cradle and the base relative to each other. Also, claim 1 is amended to delete references to the elevational levels of

the recesses. Claim 5 is amended similarly to claim 1. Claim 4 is amended to define that an outer surface of the base is tapered such that a bottom portion of the base is wider than a top portion thereof. Claim 7 is amended to define that the grooves of the base are substantially horizontally *and vertically* oriented. Claims 9, 10 are amended to define that the projections are vertically and circumferentially spaced-apart and extend outwardly from said cradle body. New claims 17-22 define further aspects of the invention.

Applicant respectfully submits that all of the amendments presented are fully supported by the original disclosure, including the drawings. Applicant also respectfully submits that no impermissible "new matter" is added by the above amendments.

The Restriction

At page 2 of the Office Action, the Examiner has made final the earlier imposed restriction requirement. Also, the Examiner indicates his opinion that claims 3, 6, 8, 11, 12 and 14-16 are not readable on the elected specie (again, contrary to applicant's indication, which was inconsistent with the specie IV erroneously indicated in applicant's earlier election), so that the Examiner has withdrawn claims 3, 6, 8, 11, 12 and 14-16 from further consideration pursuant to 37 CFR 1.142(b).

Art-Based Rejections

1. At pages 3-5 of the Office Action, claims 1, 2, 5, 9, 10 and 13 have been rejected under 25 USC § 102(b) as being anticipated by Stone et al. (5,599,258). In his rejection, the Examiner states that Stone shows a support apparatus comprising a base, and a cradle which is supported by the base, wherein the cradle has a plurality of integral projections formed thereon and extending outwardly from an outer wall/surface thereof, and the base having a plurality of recesses/grooves formed in an inner wall thereof which are configured to mate with the

projections on the cradle when the base and the cradle are operatively connected, the recessed being divisible into groups in which each recess in a group has its projection-engaging surfaces located at substantially the same level. In addition, the Examiner states that the adjacent recesses have projection-engaging surfaces located at different elevation levels from one another, wherein the cradle includes a support platform extending horizontally thereacross; and further wherein said base and said cradle are rotatably adjustable relative to one another, to variously engage the projections and recesses and thereby establish multiple different height positions of the cradle support platform. Further the Examiner states that the base comprises a hollow base body having a central opening formed therein to receive the cradle, wherein the opening defines the inner wall of the base, wherein opposite grooves located substantially 180 degrees from one another have corresponding floor portions disposed at substantially the same height, wherein the cradle has a plurality of vertically spaced apart projections extending outwardly from the cradle body, wherein the base is adapted to simultaneously support the plurality of vertically spaced-apart projections thereon, wherein the cradle body is substantially cylindrical.

Applicant's Response

Upon careful consideration and in light of the above amendments, applicant respectfully submits that such rejection is overcome and that present claims 1, 2, 5, 9, 10 and 13 are clearly patentable over the Stone reference, because Stone's system does not include or suggest the features or advantages set forth in claims 1 and 5 as discussed further below.

Initially, applicant respectfully submits that Stone's adjustable exercise step is fundamentally distinct from the claimed adjustable furniture support including a support platform as now defined. For example, these claims now define a circumferential wall extending upwardly from peripheral edges of support platform. As disclosed throughout applicant's

disclosure, the circumferential platform prevents a furniture leg supported on the support platform from sliding off. Such a circumferential wall is contrary to and incompatible with the exercise step of Stone, in which the flat upper support surface includes no walls or other projections because these would dangerously interfere with use of the exercise step. This distinction is further emphasized by new claims 18 and 22 which define that the support platform and circumferential wall define a cup-shaped recess.

Further, claims 1 and 5 define that in at least one of the different alignments between the cradle and base, the support platform is disposed at a level significantly below an upper surface of said base. This, again is contrary to and incompatible with the exercise step of Stone.

Based on the foregoing, the rejection of Claims 1, 2, 5, 9, 10 and 13 under 35 USC §102(b) is overcome, and accordingly it is respectfully requested that the rejection based on Stone et al. be reconsidered and withdrawn.

2. At pages 6-7 of the Office Action, claims 1, 4 and 7 have also been rejected under 25 USC §102(b) as being anticipated by Stone et al. (5,599,258), although the rejection is ambiguous because drawings from US Patent 3,469,870 to Barkus are also duplicated in the Office Action.

Applicant's Response

Upon careful consideration and in light of the above amendments, applicant respectfully submits that such rejection is overcome and that present claims 1, 4 and 7 are clearly patentable over the Stone reference (as well as the Barkus reference), because Stone's system (and Barkus' telescopic rotatable shaft structure) does not include or suggest the features or advantages set forth in amended claims 1 and 5 as discussed above.

Regarding the Barkus reference, it is noted that upper end of shaft 22 is flat with no projections, and to the extent such upper surface may be considered a support platform, such upper surface could never be disposed within the outer tube 10 or indexing sleeve 20 in any alignment of the shaft relative to the outer tube and sleeve because the shaft must project upwardly to function. These features of Barkus are contrary to and incompatible with the features of the claimed invention.

Based on the foregoing, the rejection of Claims 1, 4 and 7 under 35 USC §102(b) is overcome, and accordingly it is respectfully requested that the rejection based on Stone et al. (or Barkus) be reconsidered and withdrawn.

Other Matters

The additional references cited by the Examiner, as listed on the form PTO-892 included with the Office Action and mentioned at the paragraph bridging pages 7-8 of the Office Action, have been considered by applicant. It is respectfully submitted, however, that these additional references fail to overcome the differences between the Stone invention (and the Barkus invention) as discussed above and the present invention.

New claims 17-22 are believed to be allowable over the references of record based on the foregoing arguments concerning the merits of claims 1 and 5, and on the merits of the additional features set forth in these new claims.

Conclusion

In conclusion, applicant has overcome the Examiner's rejection as presented in the Office Actions; and moreover, applicant has considered all of the references of record, and it is respectfully submitted that the invention as defined by each of the present claims is clearly patentably distinct thereover.

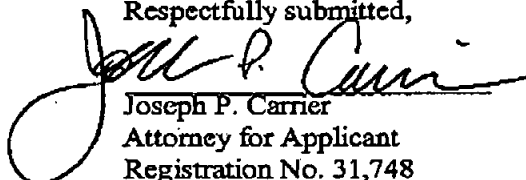
The applicant is not believed to be in condition for allowance, and a notice to this effect is earnestly solicited.

If the Examiner is not fully convinced of all of the claims now in the application, applicant respectfully requests that the Examiner telephonically contact applicant's undersigned representative to expeditiously resolve prosecution of the application.

Favorable reconsideration is respectfully requested.

Customer No. 21828
Carrier, Blackman & Associates, P.C.
24101 Novi Road, Suite 100
Novi, Michigan 48375
08 November 2004

Respectfully submitted,


Joseph P. Carrier
Attorney for Applicant
Registration No. 31,748
(248) 344-4422

CERTIFICATE OF TRANSMISSION

I hereby certify that this correspondence is being transmitted via facsimile to the US Patent & Trademark Office, Art Unit 3632, on 08 November 2004.

JPC/amc

